



IT IS ORDERED

Date Entered on Docket: February 13, 2018

The Honorable David T. Thuma
United States Bankruptcy Judge

UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW MEXICO

In re:

ROGER D. PHILLIPS
VICKIE N. PHILLIPS

Case No. 7-17-13043-TF

Debtors.

**DEFAULT ORDER GRANTING DEUTSCHE BANK NATIONAL TRUST COMPANY
RELIEF FROM AUTOMATIC STAY AND ABANDONMENT OF PROPERTY BY
DEUTSCHE BANK NATIONAL TRUST COMPANY LOCATED AT 255 COUNTY ROAD
4800 BLOOMFIELD, NEW MEXICO 87413**

This matter came before the Court on the Motion for Relief from Automatic Stay for the Abandonment of Property to Deutsche Bank National Trust Company, filed on January 9, 2018, (DOC 12) (the “Motion”) by Deutsche Bank National Trust Company (“Deutsche Bank”). The Court, having reviewed the record and the Motion, and being otherwise sufficiently informed, FINDS:

(a) On January 9, 2018, Deutsche Bank served the Motion and a notice of the Motion (the “Notice”) on Robert L Finch, Attorney for Debtors and Edward Alexander Mazel, Trustee (the “Trustee”) by use of the Court’s case management and electronic filing system for the transmission of notices, as authorized by Fed.R.Civ.P. 5(b)(3) and NM LBR 9036-1, and on the Debtors Roger D.

Phillips, and Vickie N. Phillips, by United States first class mail, in accordance with Bankruptcy Rules 7004 and 9014.

(b) The Motion relates to the property located at 255 County Road 4800 Bloomfield, New Mexico 87413, more fully described as:

A tract of land located in the Southwest Quarter of the Northeast Quarter of the Southeast Quarter (SW/4NE/4SE/4) of Section Twenty-One (21), Township Twenty-Nine (29) North of Range Ten (10) West, N.M.P.M., San Juan County, New Mexico, described as follows:

BEGINNING at a point which bears South 1°05' East 1074.3 feet and North 89°52' East 148.7 feet from the Northwest corner of the NE/4SE/4 of said Section 21;

THENCE North 89°52' East 217 feet;

THENCE South 1°49' West 40 feet;

THENCE South 89°52' West 101 feet;

THENCE South 1°49' West 161 feet;

THENCE South 89°52' West 116 feet;

THENCE North 1°49' East 201 feet to the point of beginning.

including any improvements, fixtures, and attachments, such as, but not limited to, mobile homes (the "Property"). If there is a conflict between the legal description and the street address, the legal description shall control.

(c) The Notice provided for an objection deadline of 21 days from the date of service of the Notice, to which three days was added pursuant to Bankruptcy Rule 9006(f);

(d) The Notice was sufficient in form and content;

(e) The objection deadline expired on February 2, 2018;

(f) As of February 5, 2018, neither the Debtor nor the Trustee, nor any other party in interest, filed an objection to the Motion;

(g) The Motion is well taken and should be granted as provided herein; and

(h) By submitting this Order to the Court for entry, the undersigned counsel for Deutsche Bank certifies under penalty of perjury that, on the date this Order was presented Rose L. Brand & Associates, P.C. searched the data banks of the Department of Defense Manpower Data Center

(“DMDC”), and found that the DMDC does not possess any information indicating that the Debtor is currently on active military duty of the United States.

IT IS THEREFORE ORDERED:

1. Pursuant to 11 U.S.C. §362(d), Deutsche Bank and any and all holders of liens against the Property, of any lien priority, are hereby are granted relief from the automatic stay:

(a) To enforce its rights in the Property, including foreclosure of liens and a foreclosure sale, under the terms of any prepetition notes, mortgages, security agreements, and/or other agreements to which the Debtors are parties, to the extent permitted by applicable non-bankruptcy law, such as by commencing or proceeding with appropriate action against the Debtors or the Property, or both, in any court of competent jurisdiction; and

(b) To exercise any other right or remedy available to it under law or equity with respect to the Property.

2. The Trustee is deemed to have abandoned the Property from the estate pursuant to 11 U.S.C. §554 as of the date of entry of this Order, and the Property therefore no longer is property of the estate. As a result, Deutsche Bank need not name the Trustee as a defendant in any state court action it may pursue to foreclosure liens against the Property and need not notify the Trustee of any sale of the Property.

3. The automatic stay is not modified to permit any act to collect any deficiency or other obligation as a personal liability of the Debtors, in the event that a discharge order is entered. The Debtors can be named as defendants in litigation to obtain judgment or to repossess the Property in accordance with applicable non-bankruptcy law, pursuant to any discharge order entered.

4. This Order does not waive Deutsche Bank’s claim against the estate for any deficiency owed by the Debtors after any foreclosure sale or other disposition of the Property. Deutsche Bank may filed an amended proof of claim this bankruptcy case within thirty (30) days after a foreclosure sale of the Property, should it claim that Debtors owe any amount after the sale of the Property.

5. This Order shall continue in full force and effect if this case is dismissed or converted to a case under another chapter of the Bankruptcy Code.

6. This order is effective and enforceable upon entry. The 14-day stay requirement of Fed.R.Bankr.P. 4001(a)(3) is waived.

7. Deutsche Bank is further granted relief from the stay to engage in loan modification discussions or negotiations or other settlement discussions with the Debtors and to enter into a loan modification with the Debtors.

XXX END OF ORDER XXX

RESPECTFULLY SUBMITTED:

ROSE L. BRAND & ASSOCIATES, P.C.

By: /s/Andrew P. Yarrington

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